



ENVIRONMENTAL PROTECTION AGENCY

[FRL-10751-01-R9]

Revision of Approved State Primacy Program for the State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given that the State of Arizona revised its approved State primacy program under the federal Safe Drinking Water Act (SDWA) by adopting regulations that effectuate the federal Revised Total Coliform Rule (RTCR). The Environmental Protection Agency (EPA) has determined that Arizona's revision request meets the applicable SDWA program revision requirements and the regulations adopted by Arizona are no less stringent than the corresponding federal regulations. Therefore, EPA approves this revision to Arizona's approved State primacy program. However, this determination on Arizona's request for approval of a program revision shall take effect in accordance with the procedures described below in the SUPPLEMENTARY INFORMATION section of this notice after the opportunity to request a public hearing.

DATES: A request for a public hearing must be received or postmarked before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Documents relating to this determination that were submitted by Arizona as part of its program revision request are available for public inspection online at <https://azdeq.gov/notices>, or available upon request by emailing R9dw-program@epa.gov. In addition, these documents are available by appointment between the hours of 08:00 a.m. and 05:00 p.m., Monday through Friday, at the following address: Records Center, 1110 W. Washington St., Phoenix, Arizona 85007.

FOR FURTHER INFORMATION CONTACT: Daria Evans-Walker, EPA Region 9, Drinking Water Section; via telephone at (415) 972-3451 or via email address at Evans-Walker.Daria@epa.gov

SUPPLEMENTARY INFORMATION: Background. EPA approved Arizona's initial application for primary enforcement authority ("primacy") of drinking water systems on August 25, 1978 (43 FR 38083). Since initial primacy approval, EPA has approved various revisions to Arizona's primacy program. For the revision covered by this action, EPA promulgated the RTCR on February 13, 2013 (78 FR 10269) and minor corrections to the rule on February 26, 2014 (79 FR 10665). The RTCR revises the 1989 Total Coliform Rule and is intended to improve public health protection through the reduction of potential pathways of entry for fecal contamination into distribution systems. The RTCR applies to all public water systems, establishes a treatment technique for total coliforms and a maximum contaminant level (MCL) for *E.coli*. Public water systems that incur a set number of total coliform occurrences or exceed the *E.coli* MCL must perform assessments to identify and correct sanitary defects to prevent microbial contamination of the distribution system. EPA has determined that Arizona has adopted into state law RTCR requirements that are comparable to and no less stringent than the federal requirements. EPA has also determined that the State's program revision request meets all of the regulatory requirements for approval, as set forth in 40 CFR 142.12, including a side-by-side comparison of the Federal requirements demonstrating the corresponding State authorities, additional materials to support special primacy requirements of 40 CFR 142.16, a review of the requirements contained in 40 CFR 142.10 necessary for States to attain and retain primary enforcement responsibility, and a statement by the Arizona Attorney General certifying that Arizona's laws and regulations to carry out the program revision were duly adopted and are enforceable. The Attorney General's statement also affirms that there are no environmental audit privilege and immunity laws that would impact Arizona's ability to implement or enforce the Arizona laws and regulations pertaining to the program revision. This finding relies upon the analysis contained in the letter from the Office of the Attorney General to the EPA Region 9 Water Division Director, dated January 28, 2019, regarding its environmental audit privilege law. Therefore, EPA approves this revision of Arizona's approved State primacy program. The

Technical Support Document, which provides EPA’s analysis of Arizona’s program revision request, is available by submitting a request to the following email address: R9dw-program@epa.gov. Please note “Technical Support Document” in the subject line of the email.

Public Process. Any interested person may request a public hearing on this determination. A request for a public hearing must be received or postmarked before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** and addressed to the Regional Administrator of EPA Region 9, via the following email address: R9dw-program@epa.gov, or by contacting the EPA Region 9 contact person listed above in this notice by telephone if you do not have access to email. Please note “State Program Revision Determination” in the subject line of the email. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a timely request for a public hearing is made, then EPA Region 9 may hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator’s determination and of information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA, Region 9 does not receive a timely request for a hearing or a request for a hearing was denied by the Regional Administrator for being frivolous or insubstantial, and the Regional Administrator does not elect to hold a hearing on their own motion, EPA’s approval shall become final and effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g-2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: February 23, 2023.

Martha Guzman Aceves,
Regional Administrator,
Region 9.

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